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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

IN RE: FACEBOOK, INC., CONSUMER PRIVACY
USER PROFILE LITIGATION

MDL No. 2843

Case No. 3:18-md-02843-VC

**CO-LEAD COUNSEL'S
ADMINISTRATIVE MOTION TO
CONSIDER WHETHER CASES
SHOULD BE RELATED PURSUANT TO
LOCAL RULE 3-12**

THIS DOCUMENT RELATES TO:
ALL ACTIONS

Judge: Hon. Vince Chhabria

Pursuant to Civil Local Rules 3-12 and 7-11, Co-Lead Counsel move the Court to relate the action *Akins, et al. v. Facebook, Inc.*, No. 3:18-cv-05714-LB (N.D. Cal. Sept. 18, 2018), and *In re: Facebook, Inc. Consumer Privacy User Profile Litigation*, No. 3:18-cv-02843-VC. The *Akins* complaint is attached as Exhibit 1 to the Declaration of Lesley E. Weaver (“Weaver Decl.”).

STATEMENT OF FACTS

In this multi-district litigation (“MDL”) this Court on July 27, 2018 ordered the Consolidated Complaint in *In re: Facebook, Inc. Consumer Privacy User Profile Litigation* filed by September 21, 2018. ECF No. 103. On September 18, 2018 Plaintiffs Steven Akins, Samuel Armstrong, Terry Fischer, Taunna Jarvimaki, Tyler King, Gretchen Maxwell, Kimberly Robertson, Cheryl Senko, Tonya Smith, and Charnae Tutt (the “*Akins* Plaintiffs”) filed their complaint. The *Akins* Plaintiffs filed their complaint in order to participate in the MDL. *See* 28 U.S.C. § 1407(a) (MDL proceedings concern the consolidation of pre-existing “civil actions involving one or more common questions of fact”). *In re Mortg. Elec. Registration Sys. Litig.*, MD-09-02119-PHX-JAT, 2016 WL 3931820, at *5 (D. Ariz. July 21, 2016) (“A plaintiff may not unilaterally add actions in the MDL that have not been pending in federal court elsewhere or which were not transferred to the transferee court through the MDL process”).

The *Akins* Plaintiffs wish to be incorporated into the Consolidated Complaint and therefore seek relation to be joined with the MDL.

ARGUMENT

Under Civil Local Rule 3-12, an “action is related to another when: (1) the actions concern substantially the same parties, property, transaction or event; and (2) it appears likely that there will be an unduly burdensome duplication of labor and expense or conflicting results if the cases are conducted before different Judges.” Civil L.R. 3-12(a).

The *Akins* Plaintiffs’ complaint should be deemed related because it concerns the same Defendants, transactions, and events. The *Akins* Plaintiffs raise claims relating to Facebook’s misuse of personal information that are substantially identical to the other claims that have been transferred to this Court. *Compare, e.g.*, Weaver Decl. Ex. 1 at ¶¶ 83–121 (alleging violations of the Stored

Communications Act, California's right of publicity, California's Unfair Competition Law, intrusion upon seclusion, and unjust enrichment) *with, e.g., Schinder v. Facebook, Inc. et al.*, Case No. 5:18-cv-02571-VC (N.D. Cal. May 1, 2018), Compl. at ¶¶ 79–126 (alleging the substantially the same causes of action) (attached as Weaver Decl. Ex. 2). It is clear that relating the *Akins* Plaintiffs' claims to this MDL would prevent "unduly burdensome duplication of labor and expense or conflicting results if the cases are conducted before different Judges." Civil L.R. 3-12(a)(2).

CONCLUSION

Because the law and facts are substantially identical, Co-Lead Counsel respectfully ask the Court to order the *Akins* action related to *In re: Facebook, Inc. Consumer Privacy User Profile Litigation*, No. 3:18-cv-02843-VC.

DATE: September 19, 2018

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